



IPW

Attorney Docket No.: ISOT-024

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Invention: **Method of Controlling Spray Distances in a Spray Unit**)
Serial No.: **10/723,607**)
Filed: **11/26/2003**)
1ST Inventor: **Tilton, Charles L.**)
Examiner: **Doerrler, William C.**)
Group Art Unit: **3744**)
Attorney: **Michael S. Neustel**)

**APPLICANT'S RESPONSE TO
FIRST OFFICE ACTION DATED AUGUST 16, 2005**

Sir:

A. Fee Calculation

No Additional Fees Due.

B. Applicant's Comments

I. Overview.

The Official Action rejected Claims 1-17 under 35 U.S.C. §103(a) as being unpatentable over Patel et al. (U.S. Patent No. 6,484,521) in view of Roche et al. (U.S. Publication No. 2003/0098341). The Applicant respectfully disagrees with this rejection of these claims.

In proceedings before the United States Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Bell*, 26 USPQ2d 1529, 1530 (Fed. Cir. 1993). *In re Oetiker*, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). When references cited by the Examiner fail to establish a prima facie case of obviousness, the rejection is improper and will be overturned upon appeal. *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the



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CERTIFICATE OF MAILING

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on November 16, 2005.

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